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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,739	12/30/2004	Antoine LaFont	29644/04002	7985
24024 7590 07/15/2008 CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114				
EXAMINER ANDERSON, GREGORY A				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
07/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/508,739

Applicant(s)

LAFONT ET AL.

Examiner

GREGORY A. ANDERSON

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,19-23 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,19-23 and 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-10, 19-23, and 27-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killion 6,022,371 in view of Lafont et al 5,957,975.

Killion discloses a method for preparing an assembly for delivering a stent that is substantially resistant to negative recoil when expanded mechanically to a final predetermined diameter in a lumen of a tube, duct, or vessel of a mammalian subject, the method comprising: heating a polymeric cylindrical device which is at a final predetermined diameter and wall thickness to a temperature sufficiently above the glass transition temperature of the polymer and for a time sufficient to erase memory of previous processing of the device, wherein the final predetermined diameter and wall thickness are substantially the same as the diameter and wall thickness of a stent that has been expanded to a final desired diameter at a target site in a tube, duct, or vessel of the mammalian subject, wherein the device is mounted on a solid support for maintaining the cylindrical device at the final predetermined diameter (Col. 3 ll. 39-45), and wherein the polymeric device has a wall defining a first open end, a second open end, and a channel connecting the first and second open ends (Figs. 3a-3d), rapidly cooling the polymeric cylindrical device at a temperature below the T_g of the polymer to

quench the polymeric cylindrical device and to provide an educated polymeric cylindrical device having a memory of the final predetermined diameter (Col. 3 ll. 45-49); forming slits, voids, or open spaces in the wall of the polymeric cylindrical device (Col. 3 ll. 37-39); and mounting the device on an inflatable balloon catheter (Col. 3 ll. 61-63). The stent will inherently exhibit positive recoil when not fully expanded.

However, Killion does not disclose reducing the diameter of the cylindrical device by heating the device to a temp at or above the Tg of the polymer while evenly applying pressure to the exterior surface of the wall of the device; and rapidly cooling the device below the Tg to provide an assembly comprising an inflatable balloon catheter and an expandable polymeric stent which is substantially resistant to negative recoil when expanded mechanically to the final predetermined diameter by inflation of the balloon. Killion further does not disclose the stent being made from PLA.

Lafont et al. discloses reducing the diameter of the cylindrical device by heating the device to a temp at or above the Tg of the polymer while evenly applying pressure to the exterior surface of the wall of the device; and rapidly cooling the device below the Tg to provide an assembly comprising an inflatable balloon catheter and an expandable polymeric stent which is substantially resistant to negative recoil when expanded mechanically to the final predetermined diameter by inflation of the balloon (Col. 8 ll. 20-35). Lafont et al. further discloses the stent being made from PLA which has a Tg of about 60 degrees C.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the methods of Killion with the methods of Lafont et al. in order

to aide in keeping the stent in place on the balloon as taught by Lafont et al. (Col. 8 ll. 32-35).

Response to Arguments

3. Applicant's arguments with respect to claims 1, 3-10, 19-23, and 27-36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY A. ANDERSON whose telephone number is (571)270-3083. The examiner can normally be reached on Mon-Thurs 9:30am-3:00pm EST.

Art Unit: 3773

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory A Anderson/

/(Jackie) Tan-Uyen T. Ho/
Supervisory Patent Examiner, Art Unit 3773